THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.23869 of 1997

Dated 01-03-2007

Between:
Lukka Raghunath & another.

..... PETITIONER

AND

The Chairman, State Level Police Recruitment board, Office of the Director General and Inspector General of Police, Hyderabad & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.23869 of 1997

O R D E R:

Petitioners, who are advocates practicing at Guntur, question the action of the respondents, in issuing call letters to eligible candidates in the ratio of 1:2 and in not calling them for interview, as arbitrary and illegal.

Sri P.R.Prasad, learned counsel for the petitioners, would contend that while 141 posts of Assistant Public Prosecutors were notified, 21 vacancies reserved for the scheduled caste were set apart, necessitating 120 posts to be filled up. According to the learned counsel, even if the ratio of 1:2 were to be applied, 240 candidates were required to be called for interview, whereas only 227 candidates were called for interview. Learned counsel would further submit that in the absence of any minimum marks being prescribed for interview, the action of the respondents in not calling the petitioners, on the ground that they had not obtained the minimum marks was arbitrary and illegal. Learned counsel would place reliance on **S.B.Shahane v. The State of Maharashtra**[1], to contend that an independent cadre of Assistant Public Prosecutors was required to be constituted making the Head of the Department directly responsible to the State Government to enable prosecutions to be conducted independently free from the administrative and disciplinary control of the police department or its officers.

A detailed counter affidavit is filed both to the writ petition and to the WPMP. In the counter affidavit filed to the writ petition, it is specifically stated that while 21 vacancies reserved in favour of the scheduled castes were kept pending due to litigation, out of 10 S.T.

vacancies since 6 candidates were available, the remaining 4 vacancies were carried forward and that out of 4 vacancies for BC-C women category, only two candidates were available and out of three vacancies of Physically Handicapped women, only one candidate was available.

In addition to the 21 scheduled caste vacancies, 4 vacancies in the scheduled tribes quota, two vacancies under BC-A women quota, 4 vacancies under BC-B women category, two vacancies in BC-C women category and 3 vacancies of physically handicapped women quota were not filled up. The total number of vacancies actually filled up were 112. It is not in dispute that the notification prescribed the ratio of 1:2 for calling candidates for interview and inasmuch as the ratio of 1:2 would have necessitated 224 candidates to be called for 112 posts, the action of the respondents, in calling 227 candidates for the interview, cannot be faulted.

With regards the contention that no minimum marks had been prescribed in the notification and as such the respondents could not have prescribed the minimum marks, it is necessary to note that since the candidates required, under the notification, to be called for interview was in the ratio of 1:2, it would necessitate a filteration process being adopted. Calling all the candidates, irrespective of their marks, would result in exceeding the prescribed ratio of 1:2. Prescription of cut-off marks for being called for interview, to ensure that the candidates are called in the ratio of 1:2, cannot also be faulted.

The minimum cut-off marks for a BC candidate was prescribed as 96 and for an OC candidate 105 marks. Since the petitioners, who belong to OC and BC categories respectively secured 102 and 82 marks respectively, which is less than the minimum cut-off marks, to ensure compliance with the 1:2 ratio, the action of the respondents in

not calling them for interview cannot be faulted. It is not the contention of the petitioners that any person who secured lesser marks than them, in their respective quotas, was appointed as an Assistant Public Prosecutor. I see no reason to exercise the discretionary jurisdiction under Article 226 of the Constitution of India to interfere in the matter.

It must be taken note of that the Supreme Court in **S.B.Shahane**[1], had emphasized the need to have a separate independent cadre for Assistant Public Prosecutors to ensure that prosecutions are conducted independently free from the administrative and disciplinary control of the Police department. While not constituting an independent cadre, may not necessitate the selections being set aside, it cannot, however, be lost sight of that it is imperative that the law laid down by the Supreme Court be followed and an independent cadre of Assistant Public Prosecutor be constituted.

In the counter filed in the WPMP, it is stated that in the State of Andhra Pradesh, the Assistant Public Prosecutors are now working under the control of an independent authority viz. Director of Prosecutions, that a District Judge is now holding the post of Director of Prosecution and that there is no violation or contravention of the principles of law laid down by the Supreme Court.

In view of these specific averments in the counter affidavit, even this contention does not necessitate any further examination. The Writ Petition fails and is accordingly dismissed. No order as to costs.

_____

01-03-2007

usd

[1] 1996(1)ALT (Crl.) 54 (SC)